

MONTANA LEGISLATIVE HISTORY

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Chapter 555 19 81

Bill H 202 S _____ Original bill & history C

H. Committee on State Admin.

S. Committee on Local Govt.

Hearing Date(s) Jan 22 ☒ C

Hearing Date(s) Mar 05 ☒ C

_____ C

Mar 10 ☒ C

_____ C

Mar 24 ☒ C

_____ C

_____ C

Date Out _____ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Note: There are no minutes for the Free Conference Comm.

GOVERNOR'S AMENDMENTS
HOUSE 2ND READING: 4/9, BE NOT CONCURRED IN MOTION,
YEAS: 71; NAYS: 15
SENATE 2ND READING: 4/13, BE NOT CONCURRED IN
TRANSMITTED TO GOVERNOR FOR RECONSIDERATION: 4/14
ACTION: VETOED, 4/20

HB 202—SIVERTSEN—RELATING TO THE STATE BUILDING CODE, IN ORDER
TO CLARIFY THE DEFINITION OF PUBLIC PLACE.

INTRODUCED: 1/14
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/14
HEARING: 1/22
REPORT: DO PASS AS AMENDED, 1/22
2ND READING: 1/25, YEAS: 59; NAYS: 10
ON MOTION, 1/25, TAKEN FROM ENGROSSING FOR PURPOSES
AMENDMENT; RETURNED TO SECOND READING ON 19TH LEGISLATIVE
DAY
2ND READING: 1/27, YEAS: 75; NAYS: 20
3RD READING: 1/28, YEAS: 76; NAYS: 22

TRANSMITTED TO SENATE: 1/28
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/29
HEARING: 3/5
REPORT: 3/6, BE CONCURRED IN
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 3/9
REPORT: 3/11, BE CONCURRED IN, AS AMENDED
2ND READING: 3/13, YEAS: 17; NAYS: 29
ON MOTION, 3/13, INDEFINITELY POSTPONED,
YEAS: 35; NAYS: 11
SEPARATED: 3/13
ON MOTION, 3/14, REFERRED TO LOCAL GOVERNMENT
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/31, AS AMENDED, BE CONCURRED IN
ON MOTION, 3/31, RULED SUSPENDED, PLACED ON 3RD READING
3RD READING: 3/31, YEAS: 49; NAYS: 1

RETURNED TO HOUSE WITH AMENDMENTS: 3/31
2ND READING: 4/8 BE NOT CONCURRED IN MOTION,
YEAS: 77; NAYS: 3
REFERRED TO FREE CONFERENCE COMMITTEE: 4/9

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/13
HOUSE
2ND READING: 4/17, YEAS: 83; NAYS: 4
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 91; NAYS: 2

SENATE
2ND READING: 4/17, BE CONCURRED IN
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 49; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/23
ACTION: SIGNED, 4/29
CHAPTER 555

HB 203—SIVERTSEN—TO REQUIRE CANCELLATION AFTER EACH GENERAL BIENNIAL
ELECTION OF THE REGISTRATION OF ELECTORS WHO FAILED TO VOTE.
INTRODUCED: 1/14

LARRY HUSS, Montana Taxpayers Assoc., arose and stated that he would be present to answer any question concerning the bill.

Chairman Feda opened the hearing for questions from the committee.

Representative Pistoria asked if this legislation would speed up the appeals process.

Mr. Huss said that it would both from the time standpoint and the cost standpoint.

In regards to the concerns about confidentiality, Mr. Huss said that this report could be put out without identifying specific transactions.

Representative Sivertsen closed the hearing on HB 201.

HOUSE BILL 202-SPONSOR, Representative Sivertsen, stated that he was carrying this bill at the request of the Dept. of Administration. The bill clarifies the definition of "Public Place" in the state building code to include, but not be limited to, places used primarily for a business purpose in which the public comes and goes and apartments and apartment complexes.

PROPOSERS

JAMES KEMBEL, Administrator, Building Codes Division, arose in favor of HB 202. A copy of his testimony is attached and is EXHIBIT 4 of the minutes.

BOB INMAN, owner of a 4-plex in Chinook, Montana, arose, representing himself, and told the committee about the problem he had with the department of Administration because his four-plex was considered public property. He built the four-plex with his own money and to make housing for teachers in Chinook. He said that he has gone to court over the matter and it has cost him a lot of money. Now he has to take the matter to the Supreme Court and it will cost him more.

CLIFF CHRISTIAN, Montana Assoc. of Realtors, stated that they are in favor of the proposed amendment. (see amendment in EXECUTIVE SESSION section of minutes)

OPPONENTS-HB 202

There were no opponents to House Bill 202

Chairman Feda opened the hearing to questions from the committee.

Representative Spilker asked for clarification of a public place as compared to a private place. Mr. Bovinski, Dept. of Administration, referred to the State Building Codes of 1969.

Representative Sivertsen closed the hearing on HB 202.

HOUSE BILL 196-SPONSOR, Representative Brand, introduced the bill to the committee. This bill creates a preferential hiring system for unemployed firefighters who were members of a dissolved paying fire department. The local governing body that dissolves its fire department must compile a list of firefighters employed at the time of dissolution and distribute it to fire departments and local governments throughout the state. When a vacancy in another fire department occurs, the firefighters on the preferential hiring list must be offered the position before other applicants are considered. In addition, if a firefighter applies for a position within the local government entity in which the dissolved fire department was located, he must be given hiring preference. Firefighters who are bypassed for hire by an operating fire department may petition the district court for redress. Representative Brand also stated that this bill would save the departments money since they would not have to train new inexperienced firemen.

PROPOSERS

RAY BLEEM arose and stated that he was in favor of trained, qualified people being hired.

AL SAMPSON, Montana Fire Chiefs Assoc., arose in support of HB 196.

OPPONENTS

AL THELEN, representing the City of Billings, stated that they were totally against the state mandating a priority list to the city. This, he stated, should be left up to

Representative Pistoria made a substitute motion that House Bill 128 be tabled until the committee could get further information from Mr. Kansier.

Representative Holiday agreed with Representative Pistoria.

Following discussion a vote was taken and failed with 8 YES and 8 NO and 3 absent. Representatives Azzara, Kennerly and McBride did not vote. See roll call vote.

Representative Briggs made a motion that House Bill 128 DO NOT PASS. The motion was seconded by Representative Winslow. Following discussion, question being called a vote was taken and carried 13 to 4 with 2 absent. Representatives Kanduch, Pistoria and O'Connell and Holiday voted NO.

HOUSE BILL 201

NO ACTION TAKEN

The committee decided that the bill should have a fiscal note and also needed amendments before the committee could take action.

HOUSE BILL 202

DO PASS AS AMENDED

Representative O'Connell moved the following amendment to HB 202:

1. Page 4, line 3.

Following: line 2

Strike: "other than single-family houses"

Insert: "containing 5 or more dwelling units"

The motion was seconded by representative Mueller. A vote was taken and carried unanimously.

Representative Kropp moved that HB 202 DO PASS AS AMENDED. Representative Briggs seconded the motion. Question being called, a vote was taken and carried unanimously with 2 absent and Representative McBride abstaining.

HOUSE BILL 203

DO PASS

Representative Spilker moved that HB 203 DO PASS. Motion was seconded by Representative Kanduch. A vote was taken and carried unanimously.

A motion was made to adjourn at 10:00 a.m.

4
BUILDING CODES DIVISION

STATEMENT OF W. JAMES KEMBEL, ADMINISTRATOR

CONCERNING H.B. 202

The bill was introduced by Representative Sivertsen at the request of the Department of Administration.

The definition of "public place" has been the source of many disputes between the Department and the general public.

The Department has been covering apartments as "public places" and recently that practice was challenged in court by the owner of a new four-plex. The judge ruled that a four-plex should not be covered but that at some number of units, apartments probably should be covered.

The Department needs legislature to clarify what buildings should be under the code enforcement program. If we make this decision, without the guidance of law, the state may be found liable for any incidents occurring in those buildings administratively omitted.

The bill as printed is different from that requested by the Department and Representative Sivertsen. An amendment to correct the bill is attached. The intent was to cover any apartment containing more than 4 dwelling units.

VISITORS' REGISTER

HOUSE

COMMITTEE

BILL

ONSOR

Date _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Jim Turcotte, representing the Public Employees' Retirement System, spoke in favor of the bill and suggested some amendments to conform the bill to other high-risk job disability pensions (See attached Exhibit A.)

There were no opponents appearing before the committee.

Senator O'Hara then called for questions from the committee.

Senator Thomas asked if this affects funding in the fiscal year.

Art Korn said it would not bother funding at all, maybe 1%.

Jim Turcotte said in paying benefits, they pay an amount equivalent to 95% of the previous year's growth. If they don't have enough they reduce everyone else's accordingly.

CONSIDERATION OF HOUSE BILL NO. 202:

AN ACT TO AMEND SECTION 50-60-101, MCA, RELATING
TO THE STATE BUILDING CODE, IN ORDER TO CLARIFY
THE DEFINITION OF PUBLIC PLACE.

James Kembel of the Building Codes Division of the Department of Administration presented the bill to the committee in the absence of Representative Sivertsen, sponsor of the bill. This bill clearly defines "public place." There were amendments added in the House that would add condominiums. They had a charge filed against them for a four-plex. Apartments have been public places but the judge ruled a four-plex should not be covered. At some number of units, apartments should be covered. Without the legislature clarifying public places, there are going to be a lot of problems. This bill provides that apartment houses with more than five units and condominiums of more than five units should be classified as public places. Hopefully this bill will clarify the definition.

There were no opponents of the bill appearing before the committee.

Senator O'Hara then called for questions from the committee.

Senator Hammond asked in what way were they being sued.

Mr. Kembel said the case he was talking about wasn't necessarily a lawsuit. They have always been covering apartment buildings as public places. Last year a four-plex owner challenged the right to cover four-plexes. They went to court and the judge ruled against them. They would like to know where they stand.

Senator Van Valkenburg asked where that was at.

Mr. Kembel said he was not sure, he thought it was near Plenary.

Senator Van Valkenburg asked what the significance of "public place" was in terms of the building codes. Are building code regulations more stringent with respect to public places.

Mr. Kembel said no, building codes cover all buildings. When the law was passed in 1969, it stipulated the building codes at the state level would only be applied to public places. The problem was what buildings should be classified as public.

Senator Van Valkenburg asked if there was no enforcement of building codes outside of incorporated cities and towns except for public places.

Mr. Kembel said that was correct.

Senator Hammond asked if this was in Turner.

Mr. Kembel said yes, he thought it was.

Debbie Schmidt of the Legislative Council said the building code can apply outside incorporated municipalities if there is a written ordinance applying to a jurisdictional area within the 4.5 mile limit. If a subdivision was partly in the limit, it would cover the entire subdivision. We do need more specific language, there have been a lot of problems with interpreting the definition.

Senator McCallum returned to chair the meeting.

DISPOSITION OF HOUSE BILL NO. 256: Senator Hammond moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 271: Senator Thomas moved the bill be concurred in.

Senator Van Valkenburg said he would like to wait on this bill. He has asked Jim Turcotte, PERS, to give the committee a written copy of his testimony (Exhibit A) because he was talking about amending this to provide that if a person had any amount of service in at all, he would be entitled to pension for any duty-related injury, to be consistent with other law enforcement agencies.

Senator O'Hara said someone mentioned they would be back next session to take "duty-related" out.

Senator McCallum agreed to wait for Mr. Turcotte's testimony.

Local Government Committee Minutes
March 5, 1981
Page 5

DISPOSITION OF HOUSE BILL NO. 202: Senator Van Valkenburg n
this bill be concurred in.

The motion carried unanimously.

Senator Hammond said he would carry both House Bill Nos. 202
and 256.

There being no further business before the committee, the me
was adjourned at 2:10 p.m.


Chairman George McCallum

gs

DISPOSITION OF HOUSE BILL 624: Debbie Schmidt reminded the committee there was an amendment suggested on page 2, lines 8 and 9.

Senator Ochsner said some will receive a 100% raise.

Senator Van Valkenburg moved to amend lines 8 and 9 to strike "or notice of appropriation". The motion carried unanimously.

Senator Van Valkenburg then moved to amend line 9, page 3, to strike "each" and insert "the first", strike "a" and insert "any", strike ";" and insert "," and insert the words "25 cents for each subsequent page". The effect is they will get 50 cents for the first page they copy and 25 cents for each page after that. The motion carried unanimously.

Senator McCallum said they have added \$5 plus 50 cents per tract or lot, was there any charge before?

Senator Van Valkenburg said he understands it would currently be from zero to \$5.

Sonny Hanson said they have been doing it on lot charges, this sets it up so there will be the base cost plus lot charges.

Senator Ochsner moved to strike "2", line 11, page 3 and insert "1". The motion carried unanimously.

Senator Hammond moved the bill be concurred in as amended. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 555: Senator O'Hara moved the bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 202: James Kembel from the Department of Administration had worked with Senator Lee and Senator Mazurek but did not know if they consulted Senator Turnage.

Sonny Hanson said Senator Mazurek was concerned that public place is defined to include a place for carrying on elections. It is used for the definition of building.

Mr. Kembel said the amendments delete the definition of public place all together.

Debbie Schmidt feels there are problems with the amendments to HB132. This removes confusion over what is a public place. That has been the problem all along.

Senator Hammond moved to adopt the amendments to HB202. The motion carried unanimously.

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: _____

BUILDING CODES DIVISION

STATEMENT OF W. JAMES KEMBEL, ADMINISTRATOR

CONCERNING H.B. 202

The bill was introduced by Representative Sivertsen at the request of the Department of Administration.

The definition of "public place" has been the source of many disputes between the Department and the general public.

The Department has been covering apartments as "public places" and recently that practice was challenged in court by the owner of a new four-plex. The judge ruled that a four-plex should not be covered but that at some number of units, apartments probably should be covered.

The Department needs legislature to clarify what buildings should be under the code enforcement program. If we make this decision, without the guidance of law, the state may be found liable for any incidents occurring in those buildings administratively omitted.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/5/81 House Bill No. 202 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	Excused	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved the bill
be concurred in.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 5

19 22

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 202

SIVERTSEN (HAMMOND)

Respectfully report as follows: That HOUSE Bill No. 202

BE CONCURRED IN

DO PASS

Senator Van Valkenburg said the reason there was an order was because the state fire marshal petitioned for the order. Now he is saying he doesn't want the order, just the power to do what he wants to do.

Senator Hammond asked if this would not affect cities and towns because they have a city fire marshal.

Representative Manning said that was right. This affects communities like Black Eagle where they have nothing but volunteer fire departments.

Senator McCallum asked if this would affect any of the towns.

Representative Manning said they use the statute but the state fire marshal would not have to work with them.

Senator McCallum asked if we adopt this bill, could that bill just sit there.

Representative Manning did not think so. The state fire marshal's office has people out in the field to take care of such things.

DISPOSITION OF HOUSE BILL NO. 202: Senator Hammond said they are deleting something that was in the old law.

Senator Van Valkenburg said we would still have ambiguity if public places are to be included.

Senator Hammond moved the bill be concurred in as amended.

Senators O'Hara and Van Valkenburg were opposed, all others voted aye.

DISPOSITION OF HOUSE BILL NO. 358: Senator O'Hara moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 402: Senator O'Hara moved the amendments be adopted.

Senator Ochsner said he felt this was too much of a raise.

Senator McCallum asked Senator Van Valkenburg who would pay if the loser in a civil case does not have the money.

Senator Van Valkenburg said in a civil case the prevailing party would have to pay.

Senator O'Hara's motion carried unanimously.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date _____ House Bill No. 708 Time _____

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	Abstain	✓
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover		✓
Senator Fred Van Valkenburg		✓

Secretary, Gail Stockwell

Chairman, GEORGE MCCALLUM

Motion: to move amendments

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/10/81 House Bill No. 202 Time 12:3

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara		✓
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg		✓

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Hammond moved the bill
be concurred in as amended.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 10

MR.PRESIDENT.....

We, your committee onLOCAL GOVERNMENT.....

having had under considerationHOUSE..... Bill No

SIVERTSEN (Hammond)

Respectfully report as follows: ThatHOUSE..... Bill No
third reading copy, be amended as follows;

1. Page 3, line 22 through page 4, line 1.
Following: "including" on line 22.
Strike: all language through "business;" on line
1.
Insert: " : "
Renumber: subsequent subsections.

And, as so amended,

BE CONCURRED IN

~~DO PASS~~

Senator Van Valkenburg moved the bill be concurred in as amended.
The motion carried unanimously.

DISPOSITION OF HOUSE BILL 393: Senator Thomas moved the bill be not concurred in. The motion carried with Senator Van Valkenburg being opposed.

DISPOSITION OF HOUSE BILL 781: Senator Van Valkenburg moved the bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE JOINT RESOLUTION 28: Senator Ochsner moved the bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 770: Senator Van Valkenburg said he is virtually certain this bill is clean. When the codes were recodified, it was discovered some statutes were in conflict. This is an attempt to straighten this out. He moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL 724: Senator Van Valkenburg had amendments to the bill. He said situations come along that need flexibility for.

Senator Hammond said they can be misunderstood.

Senator O'Hara said there is a problem in the town of Casca. He thinks it would be a good bill if we could address it to it down so there would be no room for abuses.

Senator McCallum was concerned with the contract aspect of the bill.

Debbie Schmidt said a contract would be any agreement.

Senators Hammond and McCallum said they did not want to see it on the books.

Senator Van Valkenburg made a motion to adopt the amendments. The motion carried with Senator McCallum being opposed.

Senator Van Valkenburg moved the bill be concurred in as amended. The motion carried with Senators Hammond, McCallum and Ochsner being opposed.

DISPOSITION OF HOUSE BILL 56: Senator Hammond feels industry is doing a lot for the towns, the towns would not exist without them.

Senator Van Valkenburg thought that was unrealistic, it cannot

PROPOSED AMENDMENTS TO H.B. 202
(THIRD READING COPY)

1. Title, line 5.
Strike: "SECTION"
Insert: "SECTIONS"

2. Title, line 6.
Following: "50-60-101"
Insert: "AND 50-60-102"

3. Title, line 7.
Following: "TO"
Insert: "GENERALLY REVISE AND"
Following: "THE"
Strike: "DEFINITION OF PUBLIC PLACE"
Insert: "APPLICABILITY OF BUILDING CONSTRUCTION STANDARDS; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 3, line 19 through line 6 on page 4.
Strike: line 19 on page 3 through 6 on page 4 in its entirety
Renumber: Subsequent subsections

5. Page 4.
Following: line 17
Insert: "Section 2. Section 50-60-102, MCA, is amended to read:
"50-60-102. Applicability. (1) ~~Outside municipalities and their jurisdictional area, as defined by 50-60-101(9), parts 1 through 4 apply to "public places", as defined in 50-60-101(11)~~
Unless the municipality or county that would have jurisdiction over the buildings has a certified building code enforcement program under 50-60-301 and 50-60-302, the state building code does not apply to residential buildings containing less than five dwelling units or their attached-to structures located within the municipality's or county's jurisdictional area, and the state will not enforce the state building code under 50-60-205 as to those buildings.

(2) Where good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(3) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing therein, or other factors which make differentiation or separate classification or regulation necessary, proper, or desirable."

Section 3. Effective date. This act is effective on passage and approval."

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/24/81 House Bill No. 202 Time 7:30 p.m.

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved the bill
be concurred in as amended.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 24

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No.
SIVERTSEN (HAMMOND)

Respectfully report as follows: That HOUSE Bill No.
third reading (blue) copy, be amended as follows:

1. Title, line 5.

Strike: "SECTION"

Insert: "SECTIONS"

2. Title, line 6.

Following: "50-60-101"

Insert: "AND 50-60-102"

3. Title, line 7.

Following: "TO"

Insert: "GENERALLY REVISE AND"

Following: "THE"

Strike: "DEFINITION OF PUBLIC PLACE"

Insert: "APPLICABILITY OF BUILDING CONSTRUCTION STANDARDS; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE"

DO PASS

(cont'

March 24

Local Government Committee
House Bill No. 202
Page 2

4. Page 3, line 19 through line 6 on page 4.
Strike: line 19 on page 3 through 6 on page 4 in its entirety
Renumber: Subsequent subsections

5. Page 4.
Following: line 17

Insert: "Section 2. Section 50-60-102, MCA, is amended to read:
"50-60-102. Applicability. (1) ~~Outside municipalities and the jurisdictional area, as defined by 50-60-101(9), parts 1 through 4 apply to "public places", as defined in 50-60-101(11)~~
Unless the municipality or county that would have jurisdiction over the buildings has a certified building code enforcement program under 50-60-301 and 50-60-302, the state building code does not apply to residential buildings containing less than five dwelling units or their attached-to structures located within the municipality's or county's jurisdictional area, and the state may not enforce the state building code under 50-60-2 for those buildings.

(2) Where good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(3) The department may limit the application of any rule or portion of the state building code to include or exclude:

- (a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;
- (b) specified areas of the state based upon size, population density, special conditions prevailing therein, or other factors which make differentiation or separate classification or regulation necessary, proper, or desirable."

Section 3. Effective date. This act is effective on passage and approval."

And, as so amended, BE CONCURRED IN

H.C.